

Advice of Counsel

David H. Ingram

I pounded on the steering wheel and swore with each beat. On the screw-up scale, with one being *arriving late for dinner* and ten *the life boats on the Titanic*, I was a solid eight. I'd screwed the poor proverbial pooch as thoroughly as possible without massive loss of life.

From the back of the Econoline van, my captive said, "You can still get out of this, Karl. It's not too late."

"Shut up." I whipped past a Honda Accord, earning a honk of its wimpy horn.

"Let me out. I'll walk away, no harm done."

"Shut up!" What the hell was I going to do? I was not a criminal. Overstressed, yes. Delusional? I wouldn't argue against it. But not a criminal.

Red and blue lights exploded in my rear view mirror while a siren did its impression of pissed-off goose honking through a megaphone.

Wrong again. I was a criminal after all.

* * *

My nightmare began a year earlier with being awakened.

Five sharp raps on the front door. *What the hell?* I thought as I sat up and swung out of bed in one fluid move. I glanced at the bed stand clock. 1 a.m. As a plumber, I'm used to telephone calls at all hours from frantic clients. "On Call 24 Hours" is on my ads, and when your basement's flooding, waiting until morning isn't an option. But *on call*, not for walk-up traffic at my home.

My wife Peg has learned to sleep through the calls, and she didn't stir at the knocks. I grabbed my terrycloth bathrobe, shoved my arms into the sleeves. I padded downstairs as quickly and as quietly as I could, though I might as well have forgotten about stealth. The hammering was repeated before I reached the door.

Flipping the porch light switch, I saw two uniformed cops through the door's window. As soon as I opened the door, one of them said: "Mr. Karl Frederichs?"

"Yes?"

"Do you have a daughter, Rachel?"

"Yes, but she's not here. She has an apartment with three friends..."

Then I realized their mission: next-of-kin notification.

* * *

An hour later, Peg and I sat on a couch in the surgical waiting room at the hospital. The last time I'd waited in a hospital, it was in the maternity wing when Peg gave birth to Rachel. Pete and Mikey, our two other children, were there with me, both confused by the whole baby thing.

You need to call the boys in the morning, I instructed my brain. My thought processes had gone off line; everything had to be done manually. Tasks I used to handle without a second thought became feats of concentration.

Peg leaned against my chest and I draped my arm over her shoulder. After all her tears in the police car on the way here, I hoped she'd fallen into an emotionally exhausted slumber. I don't know why, but I remember the feel of the couch. In the maternity waiting room nineteen years earlier, the seating was chrome frames with plastic-covered padded squares in bright colors, leftovers from the 1960s. The surgical waiting room was filled with couches and easy chairs, upholstered in muted patterns of blues and grays, like you'd find in a living room. The material, though, was some industrial-strength vinyl that would resist any residue or dirt, be it sweat or tears or the coppery smell of fear. It held no sympathy and retained no impression of those who passed through the room.

Memories pummeled me. Rachel at three, covered in mud, proudly presenting Peg with the mud pie she'd made. Her long legs racing down the court during a high school basketball game. The day she moved out, determined to be independent, joining three friends in a place near their work. The spray of freckles across her cheeks. Her untamed red hair.

The two policemen who'd ferried us to the hospital stood in the waiting room doorway sipping coffee. The cups they'd gotten for Peg and me sat on the table in front of us, untouched. A detective approached the patrolmen—the bulge of his hip holster beneath his suit coat gave him away—and after a brief conversation he walked up to Peg and me.

"Mr. and Mrs. Frederichs?"

Peg sat up. If she'd been asleep it must have been the lightest slumber.

"I'm Detective Addams. I've been assigned to your daughter's case."

"What happened?" Peg asked. "The officers said it was an accident but the nurses couldn't give us any details."

"It was a hit-and-run, Mrs. Frederichs. A neighborhood man walking his dog saw it happen. Your daughter was crossing the street with the light when a black car ran the red and shot through the intersection. It slammed into her, sent her flying. The car never slowed down."

I found my voice. "So you've no idea who did this?"

"Not at the moment. There aren't traffic cameras at that corner. But the impact must have damaged the car. Our witness thinks it was a German luxury

brand, like a Mercedes or a BMW. First thing in the morning we'll put out a bulletin to every body shop in the city as well as the neighboring counties. We'll catch the bas—the person who did this to your daughter.”

Then the doctor came in, dressed in scrubs, his surgical mask hanging at his collar. He didn't need to tell us the news. The look on his face was enough.

* * *

The day after Rachel's funeral, Detective Addams called. I'd gone back to work, seeking peace in physical activity. Still, the sight of a young woman with red hair, or the sound of a girl's laughter, was enough to bring tears to my eyes. But it was either keep going, or curl up in a ball and wait to die. I'd just finished replacing a fried garbage disposal and was back in my van when my cell rang.

“Frederichs' Plumbing.”

“Detective Addams, Mr. Frederichs. I've good news. We got the bastard who killed your daughter.”

“How?”

“He brought his car into a body shop to get the damage repaired. The owner had seen our bulletin and called us. Your daughter's blood is on the bumper and the fender.”

“Who is he?”

“An investment banker named Leonard Carrolton. There's more, but let me tell you later after we make the arrest. I'll call you back.”

Now I had a name upon which to focus my rage: Leonard Carrolton.

* * *

There was a time I enjoyed watching those patrol car dash cam shows on channels like Spike and Tru-TV. The idiot offenders would attempt to run from the police, in spite of the radio dispatchers focusing the pursuit while a police copter kept the runner tagged, even at night using the FLIR system. The clips ended in spectacular crashes or with the perps abandoning their cars and dashing across fields or through backyards, only to be caught later. The videos were the modern version of a 19th century fox hunt, with more horse power.

I looked at the dashboard: forty-five in a thirty-five zone. Maybe the cop behind me had simply caught me speeding? If so, I could pull over, play it cool, and take the ticket. With my clean driving record I might even get off with a warning. But perhaps he knew about the kidnapping. My license and description might be on every patrol car's computer screen for miles around. Then I remembered I hadn't gagged him. If I stopped, one shout from him and it would all be over.

I rose a percentage point on the screw-up scale.

I had no option. I tromped down on the accelerator and heard the 8-cylinder engine roaring beneath the cowlings. In seconds I was flying along the city street, pushing seventy.

So much for my clean driving record.

* * *

I first saw Leonard Carrollton at his bail hearing. The Assistant D.A. handling the case made a compelling argument for Carrollton's being remanded into custody.

Carrollton sat with his defense attorney, his eyes locked on the judge. He was a trim man who undoubtedly spent time daily in an exclusive gym. With his expensively-styled hair and impeccable three-piece suit, he was a world removed from me. The bankers I deal with are at my local branch, dressed in business suits from Men's Wearhouse or Jones New York. I prefer female loan officers. They know what it's like working long hours to provide for a family.

When the prosecutor finished, Carrollton's lawyer stood up. He was a younger version of the banker with the same build, though his hair was sandy blond and thick where Carrollton's was gray and thinning. He'd given his name as Charles Timmons at the beginning of the proceedings.

"Your honor, my client is an integral part of society with strong community ties, so he's hardly a flight risk. Denying him bail is the prosecution's attempt to punish him before he's tried. I suggest Mr. Carrollton be released on his own recognizance."

The judge suppressed a yawn. "Let's meet in the middle, okay? Bail is set at two-hundred-and-fifty thousand dollars."

"Thank you, your honor," Timmons said, smiling.

And just like that, Carrollton walked out of the courtroom, free until the trial. The prosecutor had explained Carrollton's house was worth two million dollars, so he could post that with the court. He'd continue his career as if nothing happened until his court date.

Yet my beautiful daughter was in a grave.

I was sure this was the worse it could get.

But I was wrong. It got worse.

* * *

"I gotta tell you, there's a problem with the case."

Detective Addams sat in our living room a week before the trial began. He'd stopped by a couple of times since the bail hearing to see how we were holding up. When he came in this night, his face was grave.

"What do you mean?"

"The defense is playing games, trying to muddy the waters. They need to raise reasonable doubt. We've discovered how they intend to do it."

I reached over and took Peg's hand.

"You remember," Addams continued, "that Carrollton had his Mercedes serviced at Prestige Motors the day of the hit-and-run. They'd told us that Carrollton called them in the afternoon to say he was running late. He settled the bill with his credit card and asked them to lock the key fob in the car's trunk. Carrollton had the spare fob with him."

"Yes, I remember."

"The defense will say Carrollton didn't pick up the car until the morning. We knew he had a business dinner that night that involved a hefty bar tab. We've got the bar receipt and the waitress will testify he knocked back a half-dozen drinks. His lawyer, Timmons, will have him testify that he went back to his office after dinner and picked up the key to an apartment the company keeps in a nearby building. Early the next morning he caught a cab to the shop, got his car, and drove home to shower and change before work."

"But... but his car killed our daughter," Peg said. "Her blood's on it. Our little girl died because of that man!"

"I know, Peg," Addams said.

"How did you learn about this?" I asked.

"We checked the defense witness list. It's standard procedure in a trial. They always throw in everybody they can think of, to hide their important witnesses. Karl, if they could get a kitchen sink you installed to testify, they'd put it on the witness list. They've got a ton of specialists listed as well as everyone who works at Prestige Motors, but we found two unknowns. One of them's a cabbie who's gonna say he picked up Carrollton at the company's apartment building at 6:30 a.m. The other is a maid who serviced the apartment. She'll testify that the bed had been slept in when she cleaned the room that morning."

"They're lying!" Peg said. "They have to be lying!"

"What we're thinking is they're telling the truth." Peg started to protest again but Addams held up his hand. "That doesn't mean Carrollton's innocent, Peg. It means he worked to create an alibi. He could still have made his way to the garage, picked up his car, and hit your daughter. Then he returned the car to the garage and spent the rest of the night in the apartment to build a cover story. I'm checking all the cab companies to find if anyone drove him to the garage that night. Even if I can't find a record of the earlier ride, the shop's only two miles from Carrollton's office. That would be a reasonable walk, especially for a fitness junkie like him."

As he was leaving, Addams turned back to us. "Don't worry. This bastard may have thought he outsmarted us, but we're gonna pin him to this crime like you pin a goddamn butterfly to a board."

Addams' swearing reassured me. He was giving it to us straight.

That reassurance lasted until the trial began.

* * *

Timmons reserved his opening statement until the defense portion of the trial, and he hardly objected while the prosecutor laid out the evidence. His cross-examination of witnesses rarely went longer than a couple of questions, and sometimes a single question sufficed for him. He took the longest time with Detective Addams, who testified second, right after the dog walker who'd seen Rachel get hit.

"Detective Addams, you stated you put out a bulletin to body shops about damage to a black German late-model luxury car. Do you know how many cars are registered in the city that fit that description?"

"No."

"Would you be surprised if I told you it was one hundred and seventy-six?"

"No."

I don't say much when I'm cross-examined, Addams had told us. Defense attorneys love it when you get blabbing, so they can twist what you say. Ain't gonna happen with me.

"You testified that a body shop called about damage to a Mercedes CLS?"

"Yes."

"Do you know how many black CLS-model Mercedes are registered here?"

"No."

"Five, Detective. In fact, I have one myself. Did you look at any other car as possibly being involved in the accident?"

"No, we—" I thought Addams was going to reiterate about the blood and damage, but he thought better of it. It was already on the record in his direct testimony. A DNA expert would follow him to match the blood to Rachel.

"Mr. Kramer"—the dog walker—"testified he couldn't see the driver. Did you investigate anyone other than Mr. Carrollton?"

"Not after we got the blood report back, Counselor."

"How about before that? Did you investigate anyone else, Detective?"

Addams stared at Timmons then reverted to his brief answers. "No."

"Did forensics check the fingerprints in Mr. Carrollton's car?"

"No."

With the owner of Prestige Motors, Timmons had only one question. "Did you park Mr. Carrollton's car on the lot after the work was completed."

"No, the mechanic did it when he finished."

A psychologist testified extensively on Carrollton's suspected behavior the night of the hit-and-run, including his returning the Mercedes to the garage parking lot. On cross-examination, Timmons said, "Let me make sure I understand. Returning the Mercedes to the garage isn't an unusual act."

"No, it's not. It happens when a person is trying to deny reality and responsibility. They return things to how they were before the incident, like they're pretending it never happened."

"So, if things happened like the prosecution claims, would Mr. Carrollton be the only man ever to do this?"

"No. As I said, it's a common reaction to unpleasant events."

When the prosecutor called the men who'd shared Carrollton's bar tab, Timmons simply asked them if they'd driven themselves home that night. Both piously said they'd used cabs.

After the prosecution rested, Timmons rose and delivered his opening statement.

"This case is a tragedy," he told the jury. "A young woman lost her life when the driver of a car ran her down." Timmons went through a quick summation of the prosecution's case, which surprised me. It was like he was arguing that case, not the defense. I should have known he had a point to make. "However, with all this testimony, one thing the prosecution has not done is place my client behind the wheel of his car when it hit Rachel Frederichs."

I saw the prosecutor was surprised when Timmons called Carrollton to the stand as the first defense witness. Timmons led the banker through his alibi, which was everything Addams told me to expect. At his lawyer's prompting, Carrollton reiterated what he'd told the owner of Prestige Motors. "I asked him to lock the key fob in the trunk."

"And when you picked up the car in the morning, was it there?"

"No. The fob was inside the passenger compartment."

When the prosecutor got his chance at Carrollton, he did everything he could to rattle the banker. The man sat there placidly and stuck to his story. The cabbie and the maid were trotted out to support his testimony. Then Timmons went in an unexpected direction.

"The defense calls Julius DeMint."

DeMint was in his twenties, still nursing a bad case of high school acne. The suit he wore looked like he'd grabbed it off a rack at the Goodwill Thrift store that morning.

"Mr. DeMint," Timmons said, "you did the service on Mr. Carrollton's Mercedes, is that correct?"

"Yup...er, yes. The seventy-five thousand mile recommended maintenance."

"Oil change, tire rotation, check all the fluids?"

"Pretty much."

"And when you finished, did you parked the car on the outer lot?"

"That's right."

"And did you leave the key fob in the passenger compartment, where Mr. Carrollton discovered it in the morning?"

"Yeah, I did. I hit the door lock button before I left it there."

"Before this case, have you ever been questioned by the police?"

"What d'ya mean?" DeMint said, squirming a bit.

"I'm sorry, I should have specified: at *work*, have you ever been questioned by the police before this case?"

DeMint frowned. "Well, yeah. Once."

"And why were you questioned?"

"Some kids took one of the cars off the lot for a joy ride and wrapped it around a pole. It was left open at the owner's request so he could pick it up that night after we were closed. That's why I made sure to lock Mr. Carrollton's car. Boss said no more unlocked cars."

"You figured the key fob would be safe inside the car until Mr. Carrollton picked it up, right?"

"That's right."

The next witness was identified as an engineer for Mercedes U.S.A.

"Can you tell the jury," Timmons said, "about the ignition system on the Mercedes CLS?"

"Certainly. It's a push button ignition. Rather than turning a key, all you do is press a button. If you have the key fob near the ignition, it functions like having a key in the lock. It saves you carrying a separate key."

"So the car could have been started if the fob was in the passenger area?"

"Yes, that would be close enough to the ignition."

"And if the fob were put in the trunk, as my client requested?"

"No, that's too far away. The car wouldn't start."

Timmons paused for a moment before asking his next question. "And, besides ease of starting, what else is the system designed to do?"

"It keeps the fob from being locked inside the vehicle."

"How so?"

"The electric locks won't work if the key fob is in the passenger compartment and the engine's not running and in gear."

Suddenly all eyes in the courtroom, including mine, were riveted on the engineer.

"Mr. DeMint said he pressed the lock button."

"He could have, but with the key fob inside, the doors would not have locked."

The judge rapped his gavel on the block to silence the buzz from the spectators in the courtroom.

"So from the end of the work day on," Timmons said, "Mr. Carrollton's Mercedes was sitting unlocked with the key fob inside it, ready to drive, on a

lot where another witness testified joy riders had at least once before stolen an unlocked car?"

The engineer's response was as brief as it was devastating. "Yes."

* * *

"The police can't place Mr. Carrollton behind the wheel of his car," Timmons said in his summation. "They never bothered to check for fingerprints. They assumed that since the car belonged to my client, he had to be the driver who hit Rachel Frederichs. The other two men Mr. Carrollton was drinking with knew they shouldn't drive that night, and bless them for taking cabs home. Yet the prosecution assumes, with no evidence, that of course my client would ignore their example as well as plain common sense and try to drive, even though there was a bed available for him only a couple of blocks away.

"Think about it, my friends. What if you were sitting where Mr. Carrollton now sits? What if someone stole your car and killed a young woman with it, and the police came and arrested you for her death. They don't bother looking for who was actually driving the car. For a year you're the villain in newspaper articles and television news stories. Would you want a jury of your peers to rubber stamp the shoddy investigation and send you to prison, just because you're a banker, or because you had a couple of drinks that night? Now you know what my client has been through. Do the right thing and find him not guilty."

The prosecutor restated the case, but to no avail. It took the jury less than an hour to render a "not guilty" verdict. Carrollton was a free man again. As he and Timmons were leaving the courtroom, I heard Carrollton tell his lawyer, "You did great. We're having a victory party over at the Bonita Grill. Come join us."

"I can't stay long."

Something snapped inside my brain.

"Peg," I said, "could you catch a taxi home? I've got something I have to do."

* * *

An hour later I cruised through the parking garage of the downtown Hyatt, below where the Bonita Grill was located on the ground floor. I'd played scenarios in my brain, all of them ending in one way: an eye for an eye, a life for a life.

I found the black Mercedes CLS parked away from other cars, taking up two spots. Typical. I parked on its driver's side and turned off the engine. Before I'd left the courthouse parking lot, I'd stripped off the magnetic signs that advertised my business. Now it was an anonymous E-250 van.

While Carrollton was close to my age, he was in much better shape than me. I had to neutralize that advantage. I slid from the driver's seat and walked

bent over into the back of the van. From one of the built-in storage drawers where I keep my tools, I withdrew a camp knife in a scabbard that I clipped to my belt. I also grabbed an oversized duffel bag with a drawstring closure that I use for hauling pipe pieces. I went out the back doors, leaving them unlocked, and circled to the front of the van where I perched on the bumper and waited.

A half-hour later I heard footsteps approaching. I held the duffel open with both of my hands, one hand also grasping the drawstring. The footsteps came right up to the Mercedes. Its door locks released. Carrollton was here.

I swooped around my van, duffel held high, and slipped the bag over his head from behind as he reached for the Mercedes' door handle. The bag encased him down to his forearms. With a quick pull of the drawstring, his arms were pinioned at his sides. I drew the knife and pushed it against the canvas at his neck.

"Struggle and you die."

He stopped fighting. I walked him to the back of the van and pushed him in on his face. Using a couple pull-lock plastic straps I bound his wrists and ankles. Then I jumped behind the wheel and fired up the van. It was all I could do to drive calmly out of the parking garage.

* * *

I pulled into the city park on a dirt road I knew that led to a maintenance shed. By this time in the early evening, it would be deserted. I parked and then slipped into the back of the van again. I pulled the duffel off—

—and dropped on my butt on the van's floor in shock.

Lying there was the lawyer, Timmons, looking at me in horror.

Then it came back to me. *In fact, I have one myself.* I'd parked by Timmons' car, not Carrollton's.

When he saw me, Timmons calmed. "You thought I was Carrollton, didn't you, Mr. Frederichs?"

"Oh, shit. Shit!"

"I understand, Karl. I really do. But vengeance only kills your own soul. What would Rachel think if her father became a killer? It's hard, but you have to accept the jury's verdict. Let it go. Get on with your life."

"He got away with murder!"

"No, Karl. He was accused of it, but the case wasn't proved. The police made mistakes."

"And you took advantage of them to get him off. You're as bad as him."

"Karl, you don't know Leonard killed your daughter."

"Yes, I do."

"No. You wish it was true, and from what the police told you, you assumed it was true. But the law doesn't work on assumptions. If it did, it would be no

better than the old witch trials where they threw bound women into a pond. Float and you're a witch; sink and drown and you aren't—so sorry we killed you to find that out."

"Oh, blah blah blah. You twist words for criminals."

"I protect a person's rights. Someone has to."

"And you get paid a bucket-load of cash, I bet."

"Karl, when I was in law school, I spent summers with the Innocence Project. Almost three hundred convictions have been overturned. Three hundred people who were assumed to be guilty were freed. Seventeen were on death row. What makes this society great aren't our laws, but our defending people against abuse of those laws." Timmons smiled at me. "Look, nothing's happened yet. Take off these bindings, let me go, and we'll forget this ever happened. Okay?"

I pulled myself up and stumbled back to the driver's seat. "I have to think."

"Karl, you're making things worse. Come on, release me." I started the van and turned it around, heading back to the street.

* * *

I kept pounding on the horn as I whipped through the traffic. At least three police cars were chasing me with their sirens blaring. Ahead, I saw a red light with stopped cars stretched across my traffic lanes. I whipped over into the oncoming lanes.

A car turned right and headed straight at me. I saw the young mother driving, the kids in the back seat.

No choice for me. I spun the wheel to the left. The van shot over the curb and jumped a drainage ditch, then slammed into the berm on the far side. The van spun around. Timmons cried out as tools and plumbing supplies showered down on him. Then my head hit the door post and I blacked out.

I woke up with the smell of hot radiator fluid filling my nose and three cops aiming their guns at me, shouting for me to show them my hands.

* * *

"What the hell were you thinking, Karl?" Addams asked. He stood before me while an EMT bandaged my forehead. I was sitting on a gurney, my wrists handcuffed behind me. "You almost took out a family."

"They're okay, aren't they?"

"No thanks to you."

Timmons was on another gurney across from me. He had cuts and a bloody nose, but no major injuries. He looked at me.

"I'm sorry," I said, knowing it was pathetically too little and way too late.

"Shit, man, you're toast," another detective said. "Kidnapping, attempted murder, and then the vehicular offenses? Say goodbye to your life."

"Look, Karl, I know the stress you've been under." Addams sat down beside me. He sounded so reasonable. "The D.A. will know it, too. No way he wants to prosecute a grieving father. I'm sure, if you make a full statement now, we can knock things down." He took a small digital recorder from his pocket. "Just tell us what happened so we can present it to the D.A."

"Well, I—"

"Mr. Frederichs, shut your mouth!"

I whipped my head toward Timmons, who was now standing.

"Addams and the D.A. are not your friends," Timmons continued. "They'll want to fry your butt, especially since they lost the case today. Do the smart thing. Shut up and let a lawyer handle this. You were upset that the defense got Carrollton off. Well, let us get *you* off then."

Addams jumped to his feet. "What the hell do you think you're doing, Counselor? You're the goddamn victim here."

"No, Detective, not anymore. Now I'm the one protecting this man's rights."

"Come on, Karl," Addams said, turning back to me. "You know me. We've been through a lot this past year. Let me help you."

I stared at Timmons for a full minute before I turned to Addams.

"Detective Addams, I want a lawyer."

David H. Ingram won the 2012 Robert L. Fish Award for the best first mystery short story published in the United States. He lives in Illinois with his wife Dawn, who is an ordained minister, and is polishing his first novel.